



CS13-4846
Graves

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

1. RAQUINDA WALKER,

Plaintiff,

v.

1. TRADERS INSURANCE COMPANY,
A Foreign For Profit Insurance Corporation,

Defendant.

AUG 30 2013

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Case No.

CJ - 2013 - 4846

PETITION

A. Parties

1. Plaintiff, Raquinda Walker, is a resident of Oklahoma County in the State of Oklahoma.
2. Defendant, Traders Insurance Company, is a foreign for profit insurance corporation incorporated, organized, and domiciled under the laws of the State of Missouri.
3. The principal place of business for Defendant, Traders Insurance Company, is within the State of Missouri.
4. The Defendant, Traders Insurance Company, is licensed to conduct business in the state of Oklahoma and may be served with process through the Oklahoma Department of Insurance.
5. This action is not related to any other case filed in this court.



C. Facts

6. At all times material hereto the Plaintiff, Raquinda Walker, owned a 2001 Lincoln Town Car.
7. On or about April 26, 2013, Plaintiff's automobile was damaged as a result of hail.
8. At all times material hereto, Plaintiff's vehicle was insured under the terms and conditions of an automobile insurance policy issued by Traders Insurance Company, policy number TM35076655-00.
9. At all times material hereto, Plaintiff, Raquinda Walker, complied with the terms and conditions of her insurance policy.
10. Hail damage is a covered peril not otherwise excluded pursuant to the terms and conditions of the policy issued by the Defendant.
11. Upon Plaintiff's submission of a claim to the Defendant, an estimate was generated utilizing the NADA evaluation of \$4,275.00.
12. The Defendant, utilizing the NADA evaluation of \$4,275.00, then generated a separate "unrelated prior damage" estimate in the amount of \$2,908.64.
13. This "unrelated prior damage" estimate is said to account for wear, tear, and unrelated damages resulting from age and use. This damage estimate was generated using the actual replacement or repair costs of all unrelated prior damages, regardless of their effect on resale or market value.
14. \$2,000.00 of this \$2,908.64 "unrelated prior damage" estimate was deducted as "betterment", along with Plaintiff's deductible and salvage value, from the actual cash value payment offered to the Plaintiff.

15. This \$2,000.00 for “betterment” was deducted from the actual cash value payment despite the fact that such damage is already accounted for in the NADA estimate utilized by the Defendant.

16. As a result of this excessive application of depreciation, the Plaintiff was issued payment in the amount of \$465.00 for her covered hail damage. Had the Defendant applied the entire \$2,908.64 for “unrelated prior damage”, no payment would have been issued to the Plaintiff and her coverage would have been rendered illusory.

17. The Defendant issued an undisputed payment in the amount of \$465.00 to the Plaintiff. The check was mailed with release language on its front. When Plaintiff asked her adjuster about this language she was informed that the first undisputed payment issued in her first-party loss, if cashed, would be “construed as an agreement to accept the payment as full and final satisfaction of the claim.”


D. Count I Breach of Contract

18. Plaintiff, Raquinda Walker, hereby asserts, alleges and incorporates paragraphs 1-18 herein.

19. The automobile insurance policy No. TM35076655-00, issued by the Defendant, Traders Insurance Company, was in effect on April 26, 2013.

20. The acts and omissions of the Defendant, Traders Insurance Company, in the investigation, evaluation and payment of Plaintiffs’ claim were unreasonable and constitute a breach of contract for which contractual damages are hereby sought.

21. Defendant’s breach of contract includes, but is not limited to issuing payment to the



Plaintiff based upon a payment method which doubly applies an excessive deduction for pre-existing damage and attempting to release its first party obligations to the Plaintiff by construing the issuance of an undisputed payment for bank draft as a full and final settlement of the Plaintiff's first party claim.

E. Count II Bad Faith

22. Plaintiff, Raquinda Walker, hereby asserts, alleges and incorporates paragraphs 1-22 herein.

23. The acts and omissions of the Defendant, Traders Insurance Company, in the investigation, evaluation and payment of Plaintiffs' claim were unreasonable and constitute bad faith for which bad faith and extra-contractual damages are hereby sought.

24. Defendant was unreasonable in its excessive deduction of monies from the Plaintiff's actual cash value payment for "betterment." Defendant also acted unreasonable by attempting to unlawfully release the Plaintiff's first party claim simply by issuing payment which the Defendant admits is owed under the terms and conditions of the Plaintiff's insurance policy.

F. Count III Punitive Damages

25. Plaintiff, Raquinda Walker, hereby asserts, alleges and incorporates paragraphs 1-25 herein.

26. The unreasonable conduct of the Defendant, Traders Insurance Company, in the handling of Plaintiff's claim was intentional, willful, and wanton and was committed with a reckless disregard for the rights of the Plaintiff for which punitive damages are hereby sought.

G. Demand for Jury Trial

27. Plaintiff, Raquinda Walker, hereby requests that the matters set forth herein be determined by a jury of her peers.

H. Prayer

28. Having properly plead, Plaintiff, Raquinda Walker, hereby seeks contractual, bad faith, and punitive damages against the Defendant, Traders Insurance Company, all in an amount in excess of \$75,000.00; including costs, interest and attorney fees.

Respectfully submitted,



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